

Remarks/Arguments

Claims 1-6 are pending in this application. Applicants respectfully request reconsideration of the present application in view of the Remarks presented herein.

Claims 1-6 Are Patentable over Berger

The Office Action has rejected claims 1-6 under 35 U.S.C. §103(a) as being obvious by US Patent Number 7,395,241 to Cook ("Cook") in view of U.S. Application Publication No. 2003/0018563 to Kilgour et al. ("Kilgour"). For a proper rejection based on Section 103(a), the Office must show teachings corresponding to *all* of the claim limitations are present in or suggested by the prior art. M.P.E.P. § 2143.03. All of Applicant's claims contain recitations not taught or suggested by the cited art of record.

Claim 1 recites:

1. A method for pushing credit payments as buyer initiated transactions, comprising:
 - determining payment instructions for an accounts payable, the accounts payable representing a purchase made by a buyer from a merchant;
 - communicating electronically the payment instructions from the buyer to an acquirer, the acquirer being an entity that buys credit card receipts from merchants;
 - generating a transaction based upon the payment instructions without the transaction being initiated by the merchant, the transaction representing the buyer initiated payment;
 - and
 - settling the transaction.

In rejecting Claim 1, the Office Action cited column 6, lines 40-55 and column 6, lines 40-55 and column 29, line 60-column 30, line 15 of Cook. These portions of Cook respectively recite:

"Payments to online vendors may also be made with the present invention, providing a convenient and effective payment system for transactions on the World Wide Web. In this embodiment, the sender is assumed to be shopping at an online store or service, or the like. To effect payment for a purchase, an ~~unregistered sender again provides the appropriate source account~~ designation information for its source account (if sender has previously registered with the host, then the sender would not have

to edit the account information each time unless she decides to change the source account for a payment). The online vendor couples this information with the routing/transit number and account number for its target account for receiving the payment, along with the payment amount. This information is forwarded over the Web to the host system, which again effects the appropriate ACH transfers, as described above.”

(Cook at column 6, lines 40-55)

“The present invention can be disposed to provide a payment mechanism for such online shopping, operating in a manner similar to online bill presentment on a business's web site, as discussed above. When a purchaser is ready to conclude a purchase a page is shown with a similar icon 1106 or link or the like which generates a request to the host web site 114 for initiating the funds transfer. As before the request includes the seller's target account information and the amount of the funds transfer. The sender (here the purchaser) also provides their source account information (which may be provided to the seller's web site, or to the host web site 114). The host system 100 effects the funds transfer as described above, since it now has sufficient account information from both the purchaser/sender and seller/receiver to cause its financial institution to effect the appropriate ACH entries. The seller may provide a business account number of the purchaser, or a transaction identifier to properly identify the payment with the host system 100. When the payment is cleared, the host system 100 may contact the seller, providing the transaction identifier or business account information to indicate that payment has been settled, allowing the seller to properly update its accounts to show completed payment of the purchase.”

(Cook at column 6, lines 40-55 and column 29, line 60-column 30, line 15)

Accordingly, Cook merely discloses a buyer purchasing a product from an online store. When the buyer is ready to purchase the product from an online vender, the online vender provides a “pay now” button on the website (See Figure 11 of Cook). This directs the buyer to a host system which effects ACH transfers between the buyer and the online vendor.

As mentioned above, Cook is only directed to purchasing online products and immediately transferring funds for these products directly to the merchant. However, Cook does not disclose any “accounts payable” because there is no discussion of an obligation to pay a debt in Cook. This is even confirmed by the disclosure of Cook:

“In this disclosure, “financial account” or “account” refer to various types of banking or similar accounts maintained at financial institutions, and include checking, saving, money market, trust, investment, brokerage, credit card, line of credit, and loan accounts, and the like. This is *distinct* from a “business account” which is an *accounts payable* or receivable held by an entity (e.g. consumer) at a business for transacting purchases, making payments, and the like between the entity and the business. For example, a person would maintain a business account with their gas company into which payments for gas service are made.”
(Cook at column 11, lines 44-55, emphasis added)

Accordingly, Cook is only directed to a “financial account” or an “account” which refers to checking, saving, money market, trust, investment, brokerage, credit card, line of credit, and loan accounts, and the like; however, Cook expressly states that the accounts referred to are not “accounts payable.” Thus, in light of the above, Cook does not disclose “determining payment instructions for an *accounts payable*,” as recited in Claim 1.

Claim 1 also states “generating a transaction based upon the payment instructions without the transaction being initiated by the merchant.” As previously discussed, when the buyer wants to purchase an item from the online store, the merchant presents a “pay now” button, and when depressed the merchant’s website “generates a request to the host web site 114 for initiating transferring *funds*.” (See Figure 11 and column 29, lines 63-66). Although the host website of Cook initiates the transfer of “*funds*,” the seller of Cook must still initiate the *transaction*. Thus, Cook does not disclose “generating a transaction . . . *without the transaction being initiated by the merchant*,” as recited in Claim 1.

Applicants note that the Office Action acknowledges that Cook does not disclose “communicating electronically the payment instructions from the buyer to an acquirer, *the acquirer being an entity that buys credit card receipts from merchants*.” However, the Office Action cites paragraph [0060] of Kilgour as an attempt to remedy the deficiency of Cook. Specifically, the Office Action cites paragraph [0060] of Kilgour as allegedly disclosing “*acquirer being an entity that buys credit card receipts from merchants*.” There is no such disclosure in Kilgour. For example, paragraph [0060] of Kilgour recites (emphasis added):

“[0060] Merchants will offer their AR for sale on the Exchange and these AR will subsequently be available for investors to purchase and for the AA to collect payment thereof.

By selling title to the AR for cash through the Exchange, merchants need not exhaust their capital sources to fund them, thus freeing up existing equity and debt capital for alternate strategic initiatives. Further, merchants will be relieved of the obligation to collect and otherwise manage their AR."

Kilgour merely discloses that accounts receivables (AR) are traded on the Exchange by investors. However, there is no disclosure of any "entity that buys credit card receipts from merchants." The mere mentioning of AR does not disclose "credit card receipts," and credit card receipts are clearly not traded on the Exchange. Further, there is no disclosure of "an acquired" which is "an entity that buys credit card receipts from merchants." There is no disclosure in Kilgour of processing transactions or "communicating electronically the payment instructions from the buyer to an acquirer, the acquirer being an entity that buys credit card receipts from merchants."

It is noted that Kilgour and Cook are non-combinable references as Cook is directed to a buyer purchasing items via online transfers and Kilgour is directed to trading commercial accounts receivables via a stock exchange. These references are non-analogous and there is no reason to combine the disclosures of these references.

Thus, in light of the above, it is submitted that neither Cook nor Kilgour, whether considered individually or combined, render independent Claim 1 unpatentable and, as such, Claim 1 is submitted to be allowable.

Independent Claims 3 and 5 recite features similar to Claim 1 and are allowable for the same reasons that Claim 1 is allowable.

Additionally, Applicants would like to address the citation of column 13, lines 1-14 of Cook in rejecting the following claim recitation of Claim 3: "a purchasing management system associated with a buyer, the buyer having an accounts payable." Column 13, lines 1-14 of Cook recites (emphasis added):

"The sender's computer 110 may also execute a financial management application 128 such as Intuit's QuickenTM or QuickBooksTM & or Microsoft Corp.'s MoneyTM, or the like. This application provides various account management tools (e.g. account registers, reporting, online bill payment), and may provide business accounting features such as accounts payable/receivable tracking, and so forth. This application may be resident locally,

and may communicate with the sender's financial institution directly, or with an online banking web site 130 of the sender's financial institution 106, which may be used to communicate with the host system 100. Alternatively, the application 128 may be a simple browser that accesses the online banking web site 130, and the host system's web site 114."

Accordingly, Cook merely discloses that Intuit's QuickenTM or QuickBooksTM & or Microsoft Corp.'s MoneyTM may be used for accounts payable "tracking." There is no disclosure in Cook of "*a purchasing management system* associated with a buyer . . . having an accounts payable" and there is no disclosure of "an acquirer computer system configured to receive electronically payment instructions from the purchasing management system." Clearly, the Intuit's QuickenTM or QuickBooksTM & or Microsoft Corp.'s MoneyTM software of Cook does not send out any electronic payment instructions to an acquirer computer system. Additionally, it is noted that Kilgour also does not discuss any purchasing management system. Thus, for these additional reasons, Claim 3, is submitted to be patentably distinguishable over Cook and Kilgour.

Thus, all independent claims patentably define over the cited art and are allowable. All dependent claims are submitted to be allowable over the cited art of record for the same reasons that each respective base independent claim is allowable.

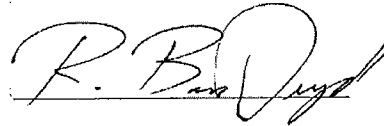
* * * * *

CONCLUSION

In view of the amendments to the application and the foregoing remarks, it is respectfully submitted that all of the claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 13-4365..

Respectfully submitted,



R. Brian Drozd
Reg. No. 55,130

Date: 10/07/09

Customer No. 69,603
Moore & Van Allen, PLLC
P.O. Box 1370A6
Research Triangle Park, NC 27709
Telephone: (919) 286-8140
Facsimile: (919) 286-8199

**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES
PATENT & TRADEMARK OFFICE PRIOR TO OR ON OCTOBER 7, 2009.**